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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,165	03/02/2004	Thomas Fink	WE10081	3398
832	7590	01/10/2006	EXAMINER	
BAKER & DANIELS LLP 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802			KNOX, STEWART	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/791,165	FINK ET AL.	
	Examiner	Art Unit	
	Stewart T. Knox	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☒ Claim(s) 1-43 is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-33, drawn to a metal fixing material bushing, classified in class 102, subclass 202.9.
 - II. Claims 34-43, drawn to a method for manufacturing a base plate of a metal fixing material bushing, classified in class 29, subclass 898.054.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the metal fixing material bushing can be made by different methods other than punching or stamping, for example by casting.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Election

4. This application contains claims and figures directed to the following patentably distinct species of the claimed invention. As it is unclear which species the claims refer to (see Claim

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Objections and Claim Rejections - 35 USC § 112 below), the species may be selected from the following figures with the appropriate corresponding claims also selected:

- a. Figs. 1a-e, drawn to a cylindrical bushing, a corresponding cylindrical slot, and projection 37 holding the bushing.
- b. Figs. 2a-c, drawn to a cylindrical bushing, a conical tapering slot, and projection holding the bushing.
- c. Fig. 3, drawn to a partially cylindrical, partially conically tapering slot and bushing.
- d. Fig. 4, drawn to a cylindrical bushing with an indented circular ring corresponding to the slot.
- e. Fig. 5, drawn to a cylindrical bushing with an external protruding circular ring corresponding to the slot.
- f. Fig. 6, drawn to a cylindrical bushing with an indented circular ring corresponding to an external protruding ring on the pin.
- g. Fig. 7, drawn to a ring and bushing interacting by a fluting, and a projection holding the bushing.
- h. Fig. 8, drawn to an inwardly curving slot and correspondingly-shaped bushing.
- i. Fig. 9, drawn to a surface-textured slot and a corresponding externally-textured bushing that interact.
- j. Fig. 10, which is not clearly described in the specification.
- k. Fig. 11, drawn to a single-pin plug, socket, and collar structure.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Claim Objections

The following objections and rejections are made with reference to the amended claims filed 3/02/2004.

Claims 1-43 are objected to because of the following informalities: the term “characterized by the fact that” (e.g. claim 1, line 4) is not standard in US Patent practice. The terms “comprising” or “consisting of” are acceptable terms. Appropriate correction is requested.

Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters 2, 3, and 9, while used to designate different elements, are all pointed at the same object. Similarly, 6 and 34 are contained on the same arrow but are used to designate different elements. Element 13 is used to refer to both “the molten glass of the front” and the metal fixing bushing. Further examples include 27 and 20, 22 and 28, 25 and 36.4. Element 10 is used to refer to both the outer circumference and the matrix. There are also instances where reference elements are referenced but not disclosed in the figure (“d2” in figure 10, for example) where the reference element has been mentioned in previous figures to refer to something that may be different. These objections are exemplary and applicant should thoroughly review the drawings for compliance. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 39, 11', 11'', 35, 16.3, 17.3, 19, 20.5, 21.5, 22.5, 11.5', 3.5', 45.10, 26.10, 48.10, 101.2.1. Further, there are several instances where identical elements across drawings are referred to by different numbers, for example 4, 4.2, 4.3...4.10, whereas other elements, such as 18, are not numbered in such a fashion. A uniform numbering system is requested. These objections are exemplary and applicant should thoroughly review the drawings for compliance. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 11.2, 11.3, 11.4, 11.5...11.10. With reference to the corrections requested above, this problem could be avoided if corresponding objects are labeled with the same reference characters. Further examples include 6.2, 6.3...6.10. There are also instances where references are discussed in the spec but labeled differently in the drawings: for example, 12.9 is mentioned in reference to fig. 10, where 12.10 is shown. These objections are exemplary and applicant should thoroughly review the

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drawings for compliance. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

8. The disclosure is objected to because of the numbering system used, wherein references are made to elements that are not pictured, and several elements exist which are not described. See drawing objections discussed above. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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11. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

12. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "metal fixing material bushing", and the claim also recites "in particular glass to metal bushing" which is the narrower statement of the range/limitation.

13. The term "metal fixing material bushing" is unclear and confusing. Applicant is requested to clarify if they are claiming a bushing, a fixing material, or something else, and how it is different from, for example, a glass plug used as a fixing material (claim 7) or a fixing material plug (e.g. claims 5, 23) or if it is present in addition to those elements.

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14. Claims 1, 3, 8, 23, 25, and 29 use the term “resources.” Without reference in the specification as to what this entails, it is unclear what is encompassed by this term. Appropriate clarification is requested.

15. Claim 8 refers to an undercut “arranged between the rear and the front viewed from the rear,” but where “the front is free from such an undercut.” It is unclear where or what this is referring to, in light of any of the figures provided. Appropriate clarification is requested.

16. Claims 1, 10-13, and 15-17 use the terms “front” and “back” when referring to the structure of the invention. However, these are relative terms and there is no point of reference, rendering these claims indefinite. Additionally, claims 11, 15, and 16 refer to two sub-areas, one that extends from the rear to the front, and another that extends from the front to the rear. It is unclear what the distinction is between these two sub-areas, since as claimed, they are the same if viewed from two different directions.

17. Claim 20 refers to “a randomly selectable cross section.” It is unclear what is encompassed by this description.

18. The terms “glass plug,” “fixing material,” and “fixing material plug” seem to be used interchangeably in both the claims and the specification, and it is unclear which distinct objects they refer to. Appropriate clarification is requested.

19. Claim 23 recites the limitation “fixing material plug” in line 4. There is insufficient antecedent basis for this limitation in the claim.

20. These rejections are exemplary and applicant should thoroughly review the claims for compliance.

Conclusion

1. In light of the rejections listed above, the claims are not considered examinable. As such, the following art is cited as pertinent but no art rejections will be made:

- a. Avetisian et al. (2002/0069783)
- b. Naugler et al. (5709724)
- c. Marquit et al. (5243492)
- d. Berg et al. (2003/0192446)
- e. Avetisian (6612241)
- f. Morte et al. (6557474)
- g. Wittwer (4686903)
- h. Graves et al. (5404263)
- i. Wang et al. (5157831)
- j. Little (5140906)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stewart T. Knox whose telephone number is (571) 272-8235. The examiner can normally be reached on Monday through Thursday, 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

STK

M. A.
Mike Barone
SPE. 3641